

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

TAKE-TWO INTERACTIVE SOFTWARE, INC.,

Plaintiff,

- against -

JOHNATHAN WYCKOFF AND JOHN DOES 1–10,

Defendants.

Case No. 1:19-cv-11818 (VEC)

ECF Case

**STIPULATION TO CONFIRM ARBITRATOR'S
PERMANENT INJUNCTION ORDER
AGAINST DEFENDANT JOHNATHAN WYCKOFF**

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiff Take-Two Interactive Software, Inc. (“Take-Two”) and Defendant Johnathan Wyckoff (“Wyckoff”) (collectively, the “Parties”), that the Permanent Injunction (the “Permanent Injunction”) entered on September 2, 2020 by Arbitrator James C. Francis IV (Ret.) in the Parties’ JAMS arbitration, a copy of which is annexed hereto as Exhibit A, is final and binding on the Parties; and

IT IS FURTHER HEREBY STIPULATED AND AGREED, that the Parties consent to the Court confirming and entering the Permanent Injunction as an Order of the Court. This Court shall retain jurisdiction to entertain such further proceedings and to enter such further orders as may be necessary or appropriate to implement and/or enforce the provisions of the Permanent Injunction.

The Clerk is ordered to terminate this action.

Dated: New York, New York
September 4, 2020

/s/ Dale M. Cendali

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/s/ Leonard French

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*Attorney for Defendant Johnathan
Wyckoff*

PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: _____, 2020

Hon. Valerie E. Caproni
United States District Judge

EXHIBIT A

JUDICIAL ARBITRATION AND MEDIATION SERVICES

TAKE-TWO INTERACTIVE SOFTWARE, INC.,

Claimant,

- against -

JOHNATHAN WYCKOFF,

Respondent.

JAMS Ref. No. 1345001467

**STIPULATED PERMANENT INJUNCTION
AGAINST DEFENDANT JOHNATHAN WYCKOFF**

IT IS HEREBY STIPULATED AND AGREED, by and between Claimant Take-Two Interactive Software, Inc. (“Take-Two”) and Respondent Johnathan Wyckoff (“Wyckoff”) (collectively, the “Parties”), that this Permanent Injunction (the “Permanent Injunction”) be entered in the present arbitration, as well as confirmed and entered by the U.S. District Court in *Take-Two Interactive Software, Inc. v. Wyckoff*, No. 19 Civ. 11818-VEC (S.D.N.Y.), as set forth below and in Annex A:

WHEREAS, Take-Two is the developer and publisher of best-selling video games, including *Red Dead Redemption*, *Red Dead Redemption II*, and the *Grand Theft Auto* series; and

WHEREAS, Take-Two is the sole owner of all right, title, and interest in and to *Red Dead Redemption* (“RDRI”), *Red Dead Redemption II* (“RDRII”), *Grand Theft Auto V* (“GTAV”), and the software it develops, including all copyrights; and

WHEREAS, for the purposes of this Permanent Injunction, the term “Take-Two Software” shall mean any software or video game that (i) has a notice indicating that Take-Two Interactive Software, Inc., Rockstar Games, Inc., or 2K Games, Inc. is the copyright owner; (ii) is labeled physically or within the game with the trademarks TAKE-TWO INTERACTIVE,

T2, , ROCKSTAR, , 2K, , PRIVATE DIVISION, , GHOST STORY, ,

SOCIAL POINT, or ; or (iii) is identified as originating from Take-Two or its labels on its website;

WHEREAS, it is alleged that Mr. Wyckoff created an unauthorized copy of RDRI from an Xbox 360 disc and developed and intended to distribute software files called the “Red Dead Redemption Damned Enhancement Project” (“RDR-DEP”) and “RDRII Project” that create unauthorized derivative works of RDRI and RDRII, including by enhancing graphics and visuals in RDRI and RDRII;

WHEREAS, it is alleged that the RDR-DEP would allow players to play an enhanced version of RDRI on personal computer, a platform for which Take-Two itself has not yet released the RDRI game;

WHEREAS, as a result, it is alleged that Mr. Wyckoff infringed Take-Two’s copyrights;

WHEREAS, as a result, it is alleged that Mr. Wyckoff has breached Take-Two’s Limited Software Warranty and License Agreement (“User Agreement”);

WHEREAS, it is alleged Mr. Wyckoff would tortiously interfere with the contracts between Take-Two and other RDRI, RDRII, and GTAV users should he release RDR-DEP and the RDRII Project;

WHEREAS, it is alleged that Mr. Wyckoff’s violations of the Copyright Act and New York law would cause Take-Two great and irreparable injury that cannot be fully compensated or measured in money;

WHEREFORE, upon the consent and request of Take-Two and Mr. Wyckoff, IT IS HEREBY ORDERED, ADJUDGED, and DECREED THAT:

1. Mr. Wyckoff is permanently enjoined and restrained from:

- (a) directly or indirectly infringing Take-Two's existing or future copyrighted works, including, but not limited to, creating derivative works based upon any portion of Take-Two Software, including RDRI, RDRII, and GTAV;
- (b) creating, writing, developing, maintaining, producing, advertising, promoting, possessing, accessing, using, and/or distributing any computer program or configuration file(s) that alters Take-Two Software (directly or indirectly, in whole or in part, in any medium, and through any means including but not limited to cloud streaming, vpn, or remote access), including without limitation the "Red Dead Redemption Damned Enhancement Project" and "RDRII Project";
- (c) inducing or materially contributing to the direct infringement or altering of any of Take-Two's existing or future copyrighted works by others;
- (d) violating Take-Two's User Agreement by, among other things, (i) "mak[ing] a copy of the Software" in violation of the User Agreement; (ii) "us[ing] or install[ing] the [Take-Two] Software (or permit[ting] others to do same) on a network, for on-line use"; and (iii) "prepar[ing] derivative works based on, or otherwise modify[ing] [Take-Two] Software, in whole or in part";
- (e) intentionally or tortiously interfering with Take-Two's contracts with its video game players by encouraging or inducing other players of Take-Two Software, including RDRI, RDRII, and GTAV, to breach their contractual responsibilities to Take-Two;
- (f) interfering with the gaming experience of other players through the use of a computer program that alters Take-Two Software;
- (g) operating or assisting any website designed to assist others in creating, writing, developing, maintaining, producing, advertising, promoting, possessing, accessing, using, and/or distributing any computer program or configuration file(s) that alters Take-Two Software, including RDRI, RDRII, and GTAV; and
- (h) assisting, aiding, or abetting any other person or business entity in engaging in or performing any of the activities referenced in paragraphs 1Error! Reference source not found. through 1Error! Reference source not found., above.

2. To the extent Mr. Wyckoff has not already done so, at the conclusion of this Arbitration, Mr. Wyckoff is hereby ordered to permanently delete and destroy all copies of any computer program or configuration file(s) that alters Take-Two Software, including without limitation the "Red Dead Redemption Damned Enhancement Project" and "RDRII Project."

3. No bond or posting of security is required of the Parties in connection with the entry of this Permanent Injunction.

4. Judge Valerie Caproni, United States District Court Judge for the Southern District of New York (the "Court") and JAMS Arbitrator James C. Francis IV (the "Arbitrator") shall retain jurisdiction to entertain such further proceedings and to enter such further orders as may be necessary or appropriate to implement and/or enforce the provisions of this Permanent Injunction. Mr. Wyckoff specifically consents to personal jurisdiction and venue in the United States District Court for the Southern District of New York in any action to enforce this Order.

5. Upon proof of any violation by Mr. Wyckoff of this Permanent Injunction, the Court and/or the Arbitrator shall be authorized to award damages, injunctive relief, Take-Two's reasonable attorney's fees, and other costs incurred in connection with an action to enforce this Permanent Injunction, and any other relief that it deems appropriate.

6. Mr. Wyckoff affirms that his consent to this Stipulation is given freely and voluntarily, and after having had the opportunity to discuss same with his legal counsel.

7. Mr. Wyckoff waives any objection under Federal Rule of Civil Procedure 65(d).

8. Pursuant to the User Agreement, this Order shall be final and binding on the Parties. This Order also may be confirmed and entered by the Court.

Dated: New York, New York
September __, 2020

Dale M. Cendali
Dale M. Cendali (Sep 1, 2020 19:42 EDT)

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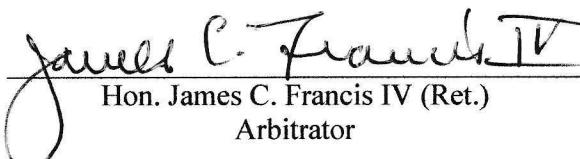

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*Attorneys for Respondent Johnathan
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PURSUANT TO STIPULATION, IT IS SO ORDERED.

DATED: September 2, 2020


Hon. James C. Francis IV (Ret.)
Arbitrator